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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

07 Cr. 1027 SCR

BERNARD KERIK,

Defendant.

-----x

December 6, 2007  
2:35 p.m.  
White Plains, N.Y.

Before:

HON. STEPHEN C. ROBINSON,

District Judge

APPEARANCES

MICHAEL J. GARCIA  
United States Attorney for the  
Southern District of New York  
ELLIOTT JACOBSON  
PERRY CARBONE  
Assistant United States Attorneys

PAUL HASTINGS JANOFSKY & WALKER  
Attorney for Defendant

KENNETH M. BREEN  
THOMAS FALLATI

JAMES O'CONNER FBI

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(CONTAINS SEALED MATERIAL)

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1 discovery letter, and we raised this at the first pretrial  
2 conference, the false statement counts which are Counts 15 and  
3 16 of the indictment, are venued in the District of Columbia.  
4 And as I also indicated at the first pretrial conference, the  
5 false statements there are of a piece with other false  
6 statements that were made in other counts. They deal with  
7 either nondisclosure or false statements, for the most part,  
8 about the apartment. But at this point at least we can only  
9 properly venue them in the District of Columbia.

10 We have turned all of the false statements over to  
11 defense counsel as part of our discovery letter, and we have  
12 asked for a response by December 15th whether Mr. Kerik is  
13 prepared to waive venue on those counts so that those counts  
14 can be tried with these counts.

15 THE COURT: The 15th is a Saturday.

16 MR. JACOBSON: Mr. Breen sent us his letter over the  
17 weekend. I don't mind if he sends us a letter on the weekend.  
18 If they want on the 17th that's fine. But we need a response,  
19 because if they're not going to waive venue, then we're going  
20 to go to the District of Columbia, present these charges there,  
21 and obtain an indictment there.

22 THE COURT: I thought you said he had until the 15th  
23 to tell you.

24 MR. JACOBSON: He does. I'm just raising this to the  
25 Court to alert the Court that if we don't have an answer by

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1 then, we may be asking for a further conference just to  
2 straighten out that issue.

3 THE COURT: You know, I'm hearing every day -- and I  
4 love seeing you guys. You don't have to warn me that you might  
5 ask me for a conference. Love to have you. You're not going  
6 to ask me to make reservations for your flight down to D.C. to  
7 do it, are you?

8 MR. JACOBSON: No, I wouldn't trouble the Court with  
9 that.

10 THE COURT: Believe me, I've been troubled with much  
11 more trivial things in more trivial cases.

12 MR. JACOBSON: We try not to trouble the Court with  
13 trivial matters.

14 THE COURT: That's nice to know, really. I'll sleep  
15 well tonight. Anything else Mr. Jacobson?

16 Mr. Carbone, you've been silent.

17 MR. CARBONE: If I want me to say more, I'd be happy  
18 to.

19 MR. JACOBSON: Could we see the Court at sidebar with  
20 the reporter and counsel?

21 THE COURT: Are there other matters, Mr. Breen, before  
22 we do that?

23 MR. BREEN: No, your Honor, thank you.

24 (Continued on next page)

25 (The following portion was sealed)